

REMARKS

Pending Claims

Claims 9-10, 13, 15-16, and 19-22 are pending. Claims 20-22 have been added.

Claims 9-10, 13, 15-16 and 19 have been amended. No new matter has been added.

Interview

Applicants extend their appreciation to the Examiner for granting an Office interview with the undersigned attorney and Mr. Takeshi Miyazaki, representing the assignee.

It was discussed in the interview that Applicants would present amendments to claims 9 and 15 to clarify the differences between the invention as claimed and that of Itoh, U.S. Patent No. 5,445,037.

Applicants also discussed presenting new claims which include nozzle clogging detection means. Applicants pointed out in the interview that a nozzle clogging detection function was claimed in original claim 6 and was previously examined by the Examiner. Original claim 6 was initially rejected in view of Babson, U.S. Patent No. 5,885,530. Claim 6 was then canceled without prejudice or disclaimer.

The Examiner discussed whether a restriction requirement would be appropriate in view of the submission of new claims including the clogging detecting function. In Applicants view, the prior examination of original claim 6 is an indication by the Office that there is no need for a restriction requirement, however Applicants are mindful of 37 CFR 1.142(a) which states a restriction requirement may be made at any time before final action.

Request for Continued Examination (RCE)

Applicants' reply to the final Office Action is submitted with a Request for Continued Examination (RCE).

Claim Rejections Under 35 U.S.C. §103

Claims 9-10, 13-16 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Itoh, U.S. Patent No. 5,445,037, in view of Yamashita, U.S. Patent No. 4,451,433.

Applicants request reconsideration of the rejection in view of the foregoing amendments and for the following reasons.

Applicants have amended claims 9 and 15 to clarify that which applicants regard as distinguishing the invention from the art of record. In particular, claim 9 has been amended to set forth an automatic analyzer that includes analyzing means for analyzing a sample (e.g., a light source 50 and optical detector 51 as shown in Figs. 1 and 2). Claim 9 has additionally been amended to include a plurality of reaction cuvettes. *See*, for example, reaction disc 36 which has a plurality of reaction cuvettes 35. *See also* page 10, lines 20-22 of the Specification. The amendment of claim 9 additionally clarifies that the samples are dispensed by the sample probes into the reaction cuvettes and a reaction takes place, followed by analysis with the analyzing means. *See* page 16, lines 19-26 of the Specification, for example.

Claim 15 has been amended to set forth an analyzing method for an automatic analyzer. Further, claim 15 has been amended to clarify that the sample probes move along

rails from the position for suction of a sample to a sample dispensing position, and that discharging of the sample occurs at the sample dispensing position into one of a plurality of reaction cuvettes in which a reaction takes place. Further, according to amended claim 15, samples that are discharged into the reaction cuvettes are analyzed with a detector.

As amended, independent claims 9 and 15 are not rendered obvious by the combination of Itoh and Yamashita. In particular, Itoh discloses a sample sorting apparatus, which takes up a parent sample from a parent sample vessel and distributes a predetermined amount of the parent sample to child sample vessels. Itoh does not disclose an automatic analyzer as claimed by applicants or an analyzing method for an automatic analyzer.

Yamashita is relied upon for disclosing an automatic analyzer that includes a plurality of washing ports 38A, 39A, for example. However, the combination of Itoh and Yamashita does not render obvious the invention of claims 9, 10, 13, 15-16 and 19. Accordingly, the rejection under 35 U.S.C. §103(a) should be withdrawn.

Additionally, claim 19 sets forth that the sample dispensing method of claim 15 includes a stopping operation with one nozzle of a sample probe and carrying out sampling by another nozzle of another sampling probe. Neither Itoh nor Yamashita discloses this aspect of the claimed invention. Accordingly, claim 19 is separately patentable over the Itoh and Yamashita combination and the rejection under 35 U.S.C. §103 of claim 19 should be withdrawn.

New claim 20, which is an independent claim sets forth an automatic analyzer setting forth that one of the sample dispensing means has a nozzle clogging detecting means that detects clogging of a nozzle of one of the dispensing mechanisms. According to claim 20, the

controller controls the sample dispensing operation of other sample dispensing means on the basis of the information regarding clogging of the nozzle of one sample dispensing mechanism. When the controller judges clogging of a nozzle sucking a sample from one sample container by the one sample dispensing mechanism, the controller stops another sample dispensing means from sucking a sample from the same sample container. In this manner, information of the one sample dispensing means in which clogging is judged to have occurred is used by the controller to stop another sample dispensing means from sucking a sample from the one sample container in which the clogging has been judged to occur. See page 17, lines 20-28 of the Specification, for example.

According to claim 21, the controller further changes a sample container receiving a sample to another sample container and controls the other sample dispensing means to suck a sample from the other sample container. According to claim 22, when the controller judges clogging of a nozzle, the controller controls the sample dispensing means to wash the flow passage of the nozzle.

Original claim 6, which included a nozzle clogging detecting function, was rejected in view of Babson, U.S. Patent No. 5,885,530. *See* the Office Action dated April 18, 2007. The Office Action refers to column 6, lines 41-46 of Babson for disclosing a sample pipetter having clot detection. However, the reference is silent with respect to disclosing the use of the information regarding the detecting of clogging to stop another sample dispensing means from sucking a sample from the same sample container. Further, Babson is silent with respect to disclosing the changing of a sample container by a controller to another sample container that is different from the one in which the nozzle of the sample dispensing means

became clogged. Further, the Babson reference does not disclose a controller that controls the sample dispensing means to watch the flow passage of a nozzle when the controller judges clogging of a nozzle. Accordingly, claims 20-22 are patentable over Babson, whether or not considered in combination with Itoh and Yamashita, or any of the other references of record.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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